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## REMARKS

### Status Summary

Claims 1-3, 7-11, 13, and 16-18 are pending in the present application, each of which presently stands rejected. Claims 1, 7, and 18 are amended by the present amendment. No new matter has been introduced by the present amendments. Reconsideration of the application as amended and based on the remarks set forth hereinbelow is respectfully requested.

### Examiner Interview

Applicant appreciates Examiner Addie taking the time to discuss this application in a telephone interview on November 13, 2009. During the interview, claims 1 and 7 of the patent application were discussed as were possible distinctions between the claimed subject matter and the subject matter of the cited references. In particular, differences in the way the curb elements recited in the claims are incorporated and configured within a vehicle racing course were discussed.

### Claim Objection

Claim 7 is objected to because the word "curb" is misspelled in the last line of the claim. Appropriate correction has been made as indicated in the amendment to the claim.

Claim Rejection - 35 U.S.C. § 103

Claims 1-3 stand rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,841,775 to Pare, hereinafter referred to as "Pare", in view of U.S. Patent No. 2,143,433 to Curtis, hereinafter referred to as "Curtis". In addition, claims 7, 11, 13, and 16-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,457,900 to Bond, hereinafter referred to as "Bond", in view of U.S. Patent No. 6,439,801 to Galiana et al., hereinafter referred to as "Galiana". Finally, claims 8-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bond in view of Galiana, and further in view of U.S. Patent No. 5,509,753 to Thompson, hereinafter referred to as "Thompson". The positions of the Examiner with respect to claims 1-3, 7-11, 13, and 16-18 are respectfully traversed as described below.

The Examiner asserts that claims 1 to 3 are not inventive over Pare in view of Curtis. As noted previously, the subject matter as recited in claims 1 to 3 is already distinct from Pare in that it relates to vehicle racing courses, whereas Pare relates to regular roadways. A person skilled in the art looking to adapt Pare to vehicle racing courses would certainly not have looked at Curtis, which is related to movable barriers for elevated highways.

The Examiner acknowledges that Pare does not disclose curb elements that are configured as double-T elements having a double-T shape in cross-section. It is respectfully submitted that the double-T-elements disclosed in Curtis are not curb elements. A curb is a location where a relatively raised portion (or road shoulder)

meets a relatively unraised portion of a paved street. A curb thus provides the lateral boundary of a street, not a barrier between several lanes of a street. In contrast, Curtis only discloses a single I-beam that constitutes a barrier separating different lanes of traffic (See, e.g., Curtis, col. 2, lines 25-27). Accordingly, even a combination of the teachings of Pare and Curtis would not have led to the subject matter recited in claim 1.

In addition, the presently-disclosed subject matter describes a plurality of curb elements aligned along an edge of the track that can be displaced into the track section to redefine the edge of the track section. For instance, the curb elements can be displaced in a staggered arrangement such that both the width and curvature of the edge of the track section are varied. In this regard, claim 1 has been amended to recite that the device include a plurality of individual curb elements located substantially adjacent to each other in the region of this track section, the curb elements being movable from an initial configuration along an edge of the track section into a new configuration within the track section for defining a modified edge of the track section. Support for this amendment can be found in the specification as originally filed, for example at page 8, lines 21-33, and in Figures 1 and 2. It is respectfully submitted that none of the prior art reference teach or suggest plural adjacent curb elements displaceable to redefine the edge of a track section.

Further, it is noted that the I-beams by Curtis extend parallel to the lanes of traffic. (See, e.g., Curtis, page 1, right column, lines 20-35) In contrast, the double-T-

elements recited in claim 1 of the present application extend transversely to the track section, as becomes clear from Figures 3a and 3b of the application. In this regard,

claim 1 has been further amended to recite that the curb elements are oriented transversely with respect to the track section. Support for this amendment can be found in the specification as originally filed, for example at page 8, line 15, though page 9, line 9, and in Figures 1, 2, and 3A. It is respectfully submitted that a person having skill in the art would not combine Pare and Curtis to achieve curb elements that have a double T-section in the cross section that are oriented transversely with respect to the track section.

Concerning claim 7 and its dependents, the Examiner contends that Galiana teaches that it is known that barriers can be equally well used in roadways, race tracks, speedways, and the like, and therefore it would have been obvious to use the vehicle-speed sensitive curbs of Bond in a race track setting. However, Galiana merely teaches that a static barrier used as a delimiting barrier for road traffic is suitable for these purposes (see for example claim 1). However, Bond does not relate to a delimiting barrier, but rather to a speed bump that can be driven over *regardless of whether it is in its raised position or its lowered position*. Galiana does not disclose that a speed bump as disclosed in Bond can be used for race tracks or airport runways or the like. Accordingly, it is respectfully submitted that the combination of Galiana and Bond does not teach using the speed bump of Bond in a race track setting.

Further, claim 7 specifies that the curb elements can be displaced in order to reshape the racing course. It is respectfully submitted that the speed bump disclosed in Bond does not reshape a roadway or a racing course. Raising the plates disclosed in Bond merely creates speed bumps, but the shape of the course itself remains the same. Accordingly, claim 7 has been amended to more particularly recite that the liftable curb elements are aligned flush with the upper side of the track section in their initial configuration and lifted to define an edge of the track in their new configuration. Similarly, claim 18 has been amended to recite that the curb elements located in the region of the track section are vertically lifted from an initial configuration of the track section in which they are aligned flush with the upper side of the track section into a new configuration in which they are lifted to define an edge of the track. Support for these amendments can be found in the specification as originally filed, for example at page 5, lines 6-12, and in Figures 4-8. In contrast, the speed bump of Bond is designed to be driven *over in both its raised and lowered positions*. It is thus respectfully submitted that the speed bump of Bond does not define the edge of the track regardless of its position.

In addition, as discussed above, rather than a single barrier element, the presently-disclosed subject matter describes an arrangement of plural adjacent curb elements that can be displaced alone or in combinations to redefine the edge of the track section. In particular, for example, the multiple curb elements can be arranged in rows extending into the roadway, thereby allowing the edge of the track to be moved and shaped into any of a variety of combinations. In this regard, claims 7 and

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18 have each been further amended to recite a plurality of individual curb elements located substantially adjacent to each other in a row extending inwardly from an edge of the track section into the region of this track section. Support for this amendment can be found in the specification as originally filed, for example at page 10, lines 11-30, and in Figures 4-6.

Finally, it is further respectfully submitted that the elements disclosed by Bond are not vertically liftable as is recited in claim 7. Regarding the feature "vertically liftable", the Examiner points to Figs. 4D, 4E, 11A-C, 12, 14, and 16 of Bond. However, none of these figures show vertically liftable curb elements. Rather, all of these figures show plates that are swiveled around a pivot axis (e.g., pivoting of front plate **16** at bottom hinge **14**). Accordingly, they are not lifted vertically.

As a result, for at least the reasons stated above, it is respectfully submitted that both Pare and Bond, taken either alone or in combination with Galiana or Thompson, fail to teach or suggest every element of the devices and methods of independent claims 1, 7, and 18. Accordingly, it is respectfully requested that the rejection of claims 1, 7, and 18 under 35 U.S.C. § 103(a) be withdrawn and the claims allowed at this time. In addition, claims 2 and 3 depend upon claim 1, and claims 8-11, 13, 16, and 17 depend upon claim 7. Accordingly, it is respectfully submitted that the above remarks apply equally to these claims, and therefore the rejections of these claims should likewise be withdrawn and the claims allowed at this time.

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CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: November 16, 2009

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